

# MENTAL HEALTH AND DISABILITY SERVICES COMMISSION

July 20, 2017 - 9:30 am to 12:30 pm  
Polk County River Place, Room 1  
2309 Euclid Ave, Des Moines, Iowa  
MEETING MINUTES

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## MHDS COMMISSION MEMBERS PRESENT:

Thomas Broeker  
Dennis Bush  
Jody Eaton (phone)  
Representative David Heaton  
Kathryn Johnson  
Betty King (phone)  
Sharon Lambert (phone)

Brett McLain  
John Parmeter  
Rebecca Peterson  
Rebecca Schmitz (phone)  
Marilyn Seemann  
Jennifer Sheehan

## MHDS COMMISSION MEMBERS ABSENT:

Thomas Bouska  
Peter Brantner  
Senator Mark Costello  
Marsha Edgington

Geoffrey Lauer  
Senator Liz Mathis  
Representative Scott Ourth

## OTHER ATTENDEES:

Sara Allen	Cornerstone Government Affairs
Jess Benson	Legislative Services Agency
Teresa Bomhoff	NAMI Greater Des Moines/Mental Health Planning Council
Catie Cambell	Iowa Department of Inspections and Appeals
Christie Gerken	Iowa Advocates for Mental Health Recovery
Sandi Hurtado-Peters	Iowa Department of Management
Julie Maas	MHDS, Community Services & Planning/CDD
Todd Noack	Life Connections Peer Recovery Services
Flora Schmidt	Iowa Behavioral Health Association
Rick Shults	Department of Human Services, Division Administer MHDS
John Stoebe	University of Iowa Health Clinics

## Welcome and Call to Order

John Parmeter called the meeting to order at 9:34 am and led introductions. Quorum was established with nine members present and four participating by phone. No conflicts of interest were identified.

## MHDS Update – Rick Shults

Rick Shults discussed Senate File 504 which charged the Department of Human Services to convene a work group to make recommendations to the Governor and General Assembly relating to the service delivery of, access to, and coordination of mental health, disability, and substance use disorder services and supports for individuals with co-occurring mental health and substance use disorder, co-occurring mental illness and intellectual disability, individuals that due to their illness or disability have aggressive behavior that make it difficult for our current system to meet their needs.

Rick said that the work group will be modeled after previous work groups with a core group of people contributing to the work but all meetings will be open to the public. Rick said that this

work group will continue the work started in a 2014 report submitted to the General Assembly by a work group focused on community integration for individuals with serious mental illness. Rick asked Commission members to send success stories and what made the situation a success to Julie Maas, who is staffing the work group. Rick said that Director Palmer started this process last year when he met with several groups of people on the topic and for continuity some of those same people will be asked to participate in the work group; however, to keep the size of the work group manageable not everyone Director Palmer met with will be asked to participate in the new work group. Senate File 504 is not only a response to concerns legislators heard from their constituents, but is also reflective of the MHDS progress report which identified this as an area Iowa needs to work on.

Rick said the MHDS Regions are also directed by SF 504 to form local work groups to develop processes, policies and practices for the same group of people as the statewide work group. Rick said that the regional work groups will be comprised of representatives from hospitals, law enforcement agencies, managed care organizations (MCOs), mental health providers, crisis service providers, substance use disorder providers, NAMI and others. Rick said he would like to see these efforts intertwine so that approaches developed at a local level are supported by the conclusions at the state level and that we are coming together on a unified approach. Each of the MHDS Regions have to submit a report to DHS by October 16, 2017 which includes planning and implementation time frames, assessment tools to determine if they are achieving objectives, and financial strategies. These will be combined into the report due to the Governor and General Assembly on December 15, 2017.

Rick discussed how the Department is responsible for developing the measurable goals and objectives and an initial working draft of outcomes was presented to the regions for discussion. The draft included outcomes DHS believes might indicate that in working together we are more successful than we are now. The regions are reviewing the draft and DHS is having a dialogue with them to make sure that the information they are being asked to gather is realistic.

Teresa Bomhoff asked if the new outcomes are related to the outcome work that Rose Kim from MHDS is already doing with the regions. Rick said that these outcomes will be in addition to the quality of life outcomes that the regions are already reporting on and are more specific to the group of individuals who are having serious challenges.

Kathy Johnson said that the region she works in has already started meeting on SF504 and she has seen the draft of the outcomes. Kathy said the outcomes seem solid but there was a discussion about how they would get a baseline or measure some of the objectives without technology infrastructure issues. Kathy said that the exciting part of this process is being able to think creatively in terms of providing services but there are barriers to developing payment methodologies for new services. Kathy asked if the regions have any limitations on what they can or cannot fund in terms of access and availability. Rick said that the regions have flexibility in what they are able to fund and the goal is to work together to determine what is available and what regions have chosen to fund. Rick said that it is an ongoing discussion between DHS and the regions on how we can report better but keep creativity in the system. Kathy asked if the State will also look at individuals with co-occurring serious mental illness and complicated medical needs. Rick said that he would be open to that conversation.

Rick noted that as a companion effort to the work groups the MHDS Regions are directed to work with the MCOs and develop memorandums of understanding (MOUs) which will outline how they will work together to more be more effective in serving Iowans.

John Parmeter asked if there will be the same number of MOUs as there are regions. Rick said that is a possibility but the regions are interested in working together to develop a single MOU and DHS has provided suggestions on what a MOU should include. John also asked if the 2014 report is available and if the meeting notes from the work group are available on line. Rick said that the 2014 report will be sent out to the Commission and that the work group hasn't started yet, but once it does, meeting announcements, materials and minutes will be posted online.

Flora Schmidt asked when the membership for the State's work group will be announced and if the regional work groups will be open to the public. Rick Shults responded that the members for the state work group will be announced in the next few weeks. Jody Eaton responded that her regional work groups will be open to the public and announcements will be posted on the region's webpage.

Dennis Bush asked if there is a statewide tool for reporting the outcomes so that everyone is reporting the same information. Rick said that once the outcomes are determined they will be put into a standard format that DHS and the regions agree on.

Representative Heaton said that the regions have a long way to go in slowing down the revolving door between community based services and acute care settings. Representative Heaton said that he is concerned that there may not be room in the MCO's per member per month allocation to work with the regions and move forward in this effort or that they will say it has to be revenue neutral and there isn't the money to move forward. Rick said that you can serve people with complex needs successfully and when that occurs it creates a good financial situation. Rick said that he isn't promising savings, but there can be successful reallocation. Jennifer Sheehan said that a key to sustainability is the regions working together with the MCOs on who is responsible for payment when they are developing new services. Rick said there are opportunities for the regions and MCOs to work together to braid their funding but it needs to be done in a way that holds both entities accountable for their responsibilities.

John Parmeter asked how new services get approved for funding since there seems to be a gap between the State and the MCOs. John gave the example of intensive in-home family therapy not being funded, saying the only way a child can access funding for this service is through the criminal justice system. John said that through private funding Orchard Place has developed 24 hour crisis services and they are looking for ways to help with costs for their crisis services. Rick Shults said that he has seen what he believes are the final version of codes for crisis services for adults and children. Representative Heaton asked if systems of care dollars can be used for intensive in-home family therapy and Rick Shults responded that providers can bill for the service as regular outpatient but that rate doesn't cover the full cost. John agreed saying that intensive in-home therapy is a more intensive service than outpatient therapy. Rick said that the State is moving forward with changing the home and community based services rate system to a tiered system services to take into account the intensity of services.

Sharon Lambert asked if the hospitals would be willing to take individuals with aggressive behavior if they were paid a higher rate. Rick said that is a question he wants to ask the hospitals. Rick said that some hospitals wouldn't be able to meet the individual's needs either way because of the way the hospitals are physically designed. Rick said that he would like to have a conversation with the hospitals that are physically equipped regarding what it would take for them to be willing and able to accept individuals with complex needs. Rick discussed how Medicaid expansion has helped the hospitals access funding for hundreds of people who previously didn't have insurance.

There was a discussion on the need for co-occurring inpatient beds and integrated care in Iowa.

Kathy asked if Senate File 504 gives the regions the option to not raise their levy for a year and if they have to use their fund balances to grow services. Rick responded that they are expected to use their fund balances and only two regions made the decision to raise their levy. Dennis Bush and Tom Broeker explained that their counties did not raise their levy because their budgets had already been set at the time the legislation went through and they chose not to go back and amend their budgets. Rick agreed that the time frame for amending county budgets to raise their levy was tight.

There was discussion on the MHDS Regions fund balances and levies.

### **Review of the Administrative Rule-making Process – by Harry Rossander**

The administrative rule-making process is a very intentional and careful process designed to promote transparency and to invite public participation. It is linked directly to the legislative services agency calendar which publishes the Iowa Administrative Bulletin every two weeks. A rule is something that implements a federal or state law or policy, interprets a federal or state law or policy, prescribes a state law or policy, and describes an agency's organization, procedure, practice requirements, or how state laws or policies will be enforced.

Administrative rules have the effect of law. Rule-making agencies do not have independent law-making authority, and can only act within the restrictions of statute.

There are three different rule-making bodies in the Department. The Council on Human Services, The Mental Health and Disability Services Commission, and the Hawk-I Board all have the authority to make rules with regards to Department programs. Which body has authority for a specific rule depends on which program is being affected.

Each rule draft comes to the Bureau of Policy Coordination in a rule packet with a fiscal impact statement. The Bureau will review the rule, and give notice to the public. Every comment is received, read, and compiled. All comments received are published along with the Department's response to them.

The schedule for rule-making process is rigid and runs on a specific calendar. There is an initial nineteen day period for a proposed rule to be edited and published in the Iowa Administrative Bulletin. Once published, it is available for comment for thirty-five days. After all comments received have been compiled and addressed, there is another nineteen days for the final rule to be published, followed by a thirty-five day implementation period. This schedule may be extended by weeks or months depending on how many comments there are, or how quickly the proposed rule can be proofed. The schedule can also be extended depending on how often the rule-making body meets, and when the Administrative Rule Review Committee (ARRC) can notice the rule. Harry said that on average, the entire process takes around six months to complete.

It is possible to speed up the process by waiving the comment period. These emergency rule-making provisions may be used if the comment period would be unnecessary, impractical, or contrary to the public's interests. Harry advised against waiving the comment period unless it is absolutely necessary to do so. It is also possible to waive the implementation period if the legislation permits it or if it is in the public's best interest. These are implemented as emergency rules, which waive comment period and implementation period. When the emergency rule-making process is used, the rule becomes effective, and then also goes through a regular

process with the comment and implementation periods taking place after the rule is in effect. Emergency rules can be implemented as quickly as two months and normally take around four months.

Representative Heaton said that the Administrative Rules Committee prefers to have public comment on rules.

When the need for a rule change is identified MHDS staff develops a proposal. Harry said the proposal comes to the Commission for approval. The Commission must approve the proposal for it to become a notice of intended action.

After the Commission gives approval to file the rule, it gets published in the Iowa Administrative Bulletin and is open for public comment. The ARRC reviews the notice. If there are comments, MHDS staff collates, review, and drafts responses to them. Then the Bureau of Policy Coordination will edit the preamble to reflect that the rule is no longer intended action, but adopted and filed. If there are no changes due to comments, then the Commission will vote to adopt the rule. If the Commission adopts the rule, it gets filed, and the editors have nineteen days to prepare the final rule for publication in the Administrative Bulletin. The rule then goes to the ARRC, who can approve the rule, object to the rule, or delay the implementation of the rule.

Representative Heaton expressed concern about times when the rules process has been used instead of the legislation process. Representative Heaton said that the legislature is the watch dog of the executive branch to make sure that the legislative process is followed.

Kathy Johnson asked if rules that were filed emergency and adopted can be changed after it goes through the regular process with public comment. Harry stated that, yes, they can be changed through the regular rule process.

### **Approval of Minutes**

Kathy Johnson made a motion to approve the June 15th meeting minutes with changes. Jen Sheehan seconded the motion. The motion passed unanimously. Tom Broeker made a motion to approve the July 13<sup>th</sup> special meeting minutes as presented. Kathy Johnson seconded the motion. The motion passed unanimously.

The Commission broke into Committees at 11:15 am.

The Commission reconvened as a whole at 11:45 am.

### **Approval of the 2017 Cost Increase Recommendation Letter to Director Foxhoven**

Tom Broeker read the 2017 Cost Increase Recommendation letter to the Commission.

Brett McLain made a motion to approve the Cost Increase Recommendation letter as presented. Rebecca Peterson seconded the motion. The motion passed unanimously.

### **Planning for August Meeting**

The SRC's annual Barrier Report will be presented at the August meeting.

There were requests for presentations on Medicaid 101, mental health services in the education system, the Disability Rights Iowa jail report, Community Mental Health Centers (CMHC) required services and compensation, inviting Prairie Ridge Integrated Behavioral Healthcare to

present on their transition to becoming a CMHC and integrating mental health and substance use disorder services.

### **Public Comment**

Teresa Bomhoff expressed concern about the MCO reimbursement rate for services and how that impacts the workforce. She said there aren't people willing to serve individuals with complex needs for the rates being offered by the MCOs. Teresa also encouraged DHS to have examples of situations of what can go wrong along with success stories for the work group focused on individuals with complex needs.

Todd Noack said there was a situation in DeWitt where he received a call from the deputy sheriff's office regarding an individual needing to be hospitalized and when the individual arrived at the hospital they were sent home. Todd expressed concern about lack of communication within the system leading to dangerous situations for individuals and their families.

Todd invited the Commission to attend a training on peer run respite homes in DeWitt, IA and asked Julie Maas to send the announcement to the Commission and to staff at MHDS. Todd said that he is working on opening a peer run respite home in DeWitt and has been working with a program out of Wisconsin that has successfully started and received funding for a peer run respite home.

Deb Bush said that she has worked in several settings for mental health services and has worked in the hospital setting, specifically compliance for accreditation. Deb said that there is a lot that goes into the costs of remodeling a hospital for providing mental health services and it is more difficult for smaller hospitals. Deb stated that when smaller hospitals take individuals who they are not equipped to serve, they open themselves up to lawsuits if something goes wrong. Deb commented that the State of Iowa needs tort reform.

Minutes respectfully submitted by Julie Maas.